



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers, however the department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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STATUTE OF LIMITATION AND PAST PERFORMANCE

Issued August 19, 1966

Where payment is constructively received in a contract settlement, does the statute of limitation begin to run when the amount is owing or paid?

Taxpayer was awarded a contract for construction of a dam. Construction was commenced in 1952, and in 1954 a dispute between the parties ended the work, each party claiming the other had breached the construction contract. In 1956 a compromise settlement was reached, taxpayer paying damages less a credit for amounts due and unpaid to taxpayer for work completed up to 1954. In 1960 an assessment was issued for tax due on the amount of the credit.

The Commission held that, although the amount received by way of offset against a larger amount owed was constructively received and fully taxable, the assessment was not made within the four year time limitation of RCW 82.32.050. The time period began to run when the services were rendered irrespective of the time of payment. See ETB 117.08.235.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2- prefix are new advisories, ETBs that have been reviewed, revised, or readopted after review under the Department's regulatory improvement program. or advisories that have been revised and/or readopted

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